

Atty. Docket No. YOR9-2000-0138US1
(590.010)

REMARKS

In the Office Action dated December 27, 2005, pending Claims 1-28 were rejected and the rejection made final. In response Applicants have filed herewith an Amendment After Final and have amended independent claims 1, 15, and 28 along with dependent claims 2-3, 5-6, 8-9, 11, 14, 16-17, 19-20, 22-23, and 25. Applicants intend no change in the scope of the claims by the changes made by this amendment. It should be noted these amendments are not in acquiescence of the Office's position on allowability of the claims, but merely to expedite prosecution.

Claims 1, 2, 10, 11, 15, 16, 24, and 25 stand rejected under 35 U.S.C. 102(b) as being anticipated by Neel et al. Claims 3-9, 12, and 17-23 stand rejected under 35 U.S.C. 103(a) as being obvious over Neel et al. in view of Russo. Claims 13, 14, 26, and 27 stand rejected under 35 U.S.C. 103(a) as being obvious over Neel et al. in view of Hunter. Finally, claim 28 stands rejected under 35 U.S.C. 103(a) as being obvious over Neel et al. The Office is respectfully requested to reconsider the rejections presented in the outstanding Office Action in light of the following remarks.

Applicants maintain the applicability of their previous remarks setting forth the various bases for the withdrawal of the present rejections; therefore, Applicants incorporate these remarks by reference to the Applicants' Amendments dated September 20, 2005, and April 4, 2005. It should also be appreciated, in the unlikely event the Office might apply its previous rationale in support of rejecting the presently amended

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claims, the Applicants' previous grounds for traversing these rejections remain applicable to the presently amended claims as well.

In response to the Applicants' previous remarks the Examiner suggests,
"[A]pplicants consider providing more details in the independent claims about how the system maintains an 'account' of the positive and negative value content that has been presented to the consumer, and uses the balance in that account to determine the rules for future behavior of the presentation device as supported by the applicants specification on page 3 lines 12-14 and page 7 line 16- page 8, line 10. Furthermore, it [is] also suggested that applicants provide more details in the independent claims about the segmenting or portioning the media content that is inputted by the applicants specification." (Office Action, page 9)

Independent claim 1 is illustrative of the amendments made to the independent claims and presently recites:

An apparatus for regulating the presentation of electronic media content to a consumer, said apparatus comprising: an interface arrangement which receives media content comprising a plurality of segments, wherein each segment includes cost factor data associated therewith; a controller which examines said cost factor data, attributes credit values to said plurality of segments based on said cost factor data, and maintains a credit balance associated with said consumer based on the attributed values; and a regulator which applies rules for presenting the media content based on the credit balance.

(Claim 1) As noted above, these amendments are not in acquiescence of the Office's position on allowability of the claims, but merely to expedite prosecution.

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It is respectfully submitted the invention as set forth in the independent claims is patentably distinguishable over the applied references. At a minimum, all of the elements set forth in the independent claims are not expressly or inherently disclosed by the applied references. Applicants submit that the applied references do not "anticipate" the present invention because "[a]nticipation requires the disclosure in a single prior art reference of each element of the claim under consideration." *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1554 (Fed. Cir. 1983).

Furthermore, the applied references, either modified or in combination, fail to teach or suggest to one skilled in the art all the elements of the present invention as set forth in the independent claims. Thus, the invention is not obvious in light of the prior art, because, at a minimum, to establish a *prima facie* case of obviousness under 35 U.S.C. 103(a) each and every element of the claimed invention must be taught or suggested to one skilled in the art by the reference being modified to meet the claimed limitations or by the combination of the references.

In view of the foregoing, it is respectfully submitted that independent claims 1, 15, and 28 fully distinguish over the applied art and are thus in condition for allowance. By virtue of dependence from claims 1 and 15, and in their own right, it is also submitted that claims 2-14 and 16-27 are also allowable at this juncture.

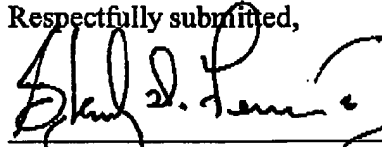
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In summary, it is respectfully submitted that the instant application, including claims 1-28, is presently in condition for allowance. Notice to the effect is hereby earnestly solicited. If there are any further issues in this application, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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